

STATEWIDE BALLOT PROPOSALS

2006

Michigan voters will decide on five policy issues at the November 7 general election. Each will ask for a YES or NO response, and each will be decided by a majority of those voting on the specific question. Michigan's constitution gives citizens a direct role, through popular vote, in amending the constitution and approving or rejecting state laws.

These five issues will appear on the 2006 ballot:

- 06-1 Natural Resources Funds
- 06-2 Michigan Civil Rights Initiative
- 06-3 Dove Hunting Referendum
- 06-4 Use of Eminent Domain
- 06-5 Educational Funding Guarantee

This publication is part of a long-standing effort by MSU Extension to provide Michigan residents with information about all of the statewide ballot proposals.

Proposal 06-1

Natural Resources Funds

Official ballot language:

A PROPOSED CONSTITUTIONAL AMENDMENT TO REQUIRE THAT MONEY HELD IN CONSERVATION AND RECREATION FUNDS CAN ONLY BE USED FOR THEIR INTENDED PURPOSES.

The proposed constitutional amendment would:

- Create a Conservation and Recreation Legacy Fund within the Constitution and establish existing conservation and recreation accounts as components of the fund
- Use current funding sources such as state park entrance and camping fees; snowmobile, ORV and boating registration fees; hunting and fishing license fees; taxes and other revenues to fund accounts
- Establish the current Game and Fish Protection Fund and the Nongame Fish and Wildlife Fund within the Constitution.
- Provide that money held in Funds can only be used for specific purposes related to conservation and recreation and cannot be used for any purpose other than those intended

Should this proposal be adopted? Yes ☐ No ☐

This proposed constitutional amendment would establish the Conservation and Recreation Legacy Fund, the Game and Fish Protection Trust Fund and the Nongame Fish and Wildlife Trust Fund within the Michigan Constitution.

A "Yes" vote supports placing specific requirements in the state constitution regarding these restricted Department of Natural Resources (DNR) funds. A "No" vote opposes adding this language. The proposal was placed on the ballot when two-thirds of the members in both houses of the legislature approved House Joint Resolution Z in late 2004.

Background

The Michigan Natural Resources and Environmental Protection Act (P.A. 451 of 1994) established many funds and programs to deal with specific issues and interests. These include the Game and Fish Protection Fund, the Recreational Snowmobile Trail Improvement Fund, the State Park Improvement Fund, the Michigan State Waterways Fund, the Michigan Harbor Development Fund, the Marine Safety Fund, the Forest Recreation Fund and others. Such programs are funded by a combination of state and federal funds, user fees, permits and licenses. The funds are earmarked for specific uses, but the legislature has transferred monies into the state's general fund to deal with budget deficits.

Michigan voters approved constitutional inclusion for the Natural Resources Trust Fund in 1984, the Michigan State Parks Endowment Fund in 1994 and the Recreation Land Acquisition Trust Fund in 2002.

The Proposal

The joint resolution, adding Sections 40-42 to Article IX of the state constitution, would establish the legacy fund and two trust funds and incorporate language from the current law to specify revenue sources and allowable expenditures.

- *The Michigan Conservation and Recreation Legacy Fund* (Sec. 40) would be made up of several specific funds. The amendment details the sources of revenue and specifies how the monies are to be spent, using language from current law. It also states that colleges and universities may receive grants to implement these programs. The state treasurer would direct the investment of funds and the allocation of resources. The Legacy Fund includes the forest recreation account, the game and fish protection account, the off-road vehicle account, the recreation improvement account, the snowmobile account and the waterways account.
- *The Michigan Game and Fish Protection Fund* (Sec. 41) and the Nongame Fish and Wildlife Trust Fund (Sec. 42) would be established by incorporating Part 437 and Part 439 of the Natural Resources and Environmental Protection Act into the constitution. These sections specify the sources of revenue and the uses for the monies.

The legislature also adopted Public Act 587 of 2004 to implement the proposed constitutional amendment if the ballot question is approved by voters.

Policy Discussion

A bipartisan coalition of legislators placed this measure on the ballot to prevent future policy-makers from diverting the monies in these restricted DNR funds into the state's general fund to address budget deficits. Supporters noted that \$7.8 million was taken from the Waterways Fund to help deal with the 2002-03 budget deficit. They feel that constitutional protection is needed to ensure that the monies are used for the intended purposes.

The policy debate primarily focuses on whether issues normally dealt with in state law should be placed in the constitution. Proposal 06-1 would add considerable statutory detail to the constitution. People expressing concern for such action mention the difficulty in amending the constitution to address possible changes in the structure of these funds. They also feel that the legislature and the governor need flexibility to deal with current budget situations.

Interest Groups

The coalition in favor of this proposal is Citizens Supporting Proposal 06-1 (www.mucc.org). No opposition group is known at this time.

Sources: House Fiscal Agency Analysis, *Public Act 587 of 2004, 1-6-05*; Citizens' Research Council Memorandum, *Proposal 06-1*.

Proposal 06-2

Michigan Civil Rights Initiative (MCRI)

Official ballot language

A PROPOSAL TO AMEND THE STATE CONSTITUTION TO BAN AFFIRMATIVE ACTION PROGRAMS THAT GIVE PREFERENTIAL TREATMENT TO GROUPS OR INDIVIDUALS BASED ON THEIR RACE, GENDER, COLOR, ETHNICITY OR NATIONAL ORIGIN FOR PUBLIC EMPLOYMENT, EDUCATION OR CONTRACTING PURPOSES.

The proposed constitutional amendment would:

- Ban public institutions from using affirmative action programs that give preferential treatment to groups or individuals based on their race, gender, color, ethnicity or national origin for public employment, education or contracting purposes. Public institutions affected by the proposal include state government, local governments, public colleges and universities, community colleges and school districts.
- Prohibit public institutions from discriminating against groups or individuals due to their gender, ethnicity, race, color, or national origin. (A separate provision of the state constitution already prohibits discrimination on the basis of race, color or national origin.)

Should this proposal be adopted? Yes ☐ No ☐

This proposal places new language in the Michigan Constitution dealing with affirmative action and preferential treatment in public institutions. A "Yes" vote supports ending affirmative action programs that give preferred treatment based on race, gender, color, ethnicity or national origin. A "No" vote favors retaining current affirmative action initiatives. Sufficient signatures were gathered in 2005 to place this issue on the ballot.

Background

Article 1, Section 2, of the Michigan Constitution currently states:

No person shall be denied the equal protection of the law; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color or national origin....

The phrase *affirmative action* was first used when President Kennedy signed an executive order in 1961 creating the Committee on Equal Employment Opportunity. It required federally funded programs to "take affirmative action" to eliminate racial bias in employment. In 1965, President Johnson signed an executive order requiring government contractors to "take affirmative action" to ensure racial equality in all phases of employment practices. In 1968, it was expanded to include women.

Through the ensuing years, the term "affirmative action" has encompassed the body of policies that proactively address discrimination based on race, gender, ethnicity and national origin in public education, public employment and public contracting. There has also been a series of court cases challenging, defining and developing criteria for affirmative action practices dealing with issues related to quotas, university admissions and employment.

The Proposal

This proposal would add Section 26 to Article I of the Michigan Constitution. The new language would specify that:

- The University of Michigan, Michigan State University, Wayne State University and all other public educational institutions shall not "discriminate against or grant preferential treatment" to a person or group on the basis of race, sex, color, ethnicity or national origin. This provision also applies to state and local governments.
- The prohibition refers to public employment, public education and public contracting.
- "Bona fide" qualifications based on gender that are "reasonably necessary" for the operation of public education, public employment and public contracting would be allowed.
- Public entities could maintain affirmative action programs to establish or maintain eligibility for federal programs or funds.

- If one portion of the amendment is found to be in conflict with federal law or the constitution, the remainder would still be valid.
- The provisions apply only to action taken after the effective date of the amendment.
- The amendment would not affect current court orders or consent decrees.

Policy Discussion

The policy debate focuses on differing views about the role that public educational institutions and governmental entities should play in taking specific action related to issues of gender, race and ethnicity. There are many opinions regarding the definitions of preferential treatment and affirmative action. There are also divergent views about how the adoption of Proposal 06-2 would impact all the Michigan laws that reference gender, race, or ethnicity. If voters approve this proposal, courts will likely determine how the amendment affects these programs and services.

Proponents of Proposal 06-2 feel that affirmative action programs have met the original objectives and are no longer needed. They explain that it is now more important to address socioeconomic factors. They feel that governments and public education should not use any type of racial or gender preferences in decision-making about jobs, employment or contracting.

Opponents of Proposal 06-2 explain that affirmative action programs are needed to remedy past discriminatory practices and foster greater diversity in public institutions. They feel that these programs offer opportunities that would not otherwise exist for women and minorities to have a fair chance at accessing jobs, public education and public contracts.

Note: See the Citizens' Research Council materials referenced below (www.crcmich.org) for a more complete description of the potential impact of Proposal 06-2 on Michigan laws dealing with affirmative action initiatives.

Interest Groups

The supporting coalition is the Michigan Civil Rights Initiative (www.michigancivilrights.org) and the opposing coalition is One United Michigan (www.oneunitedmichigan.org)

Sources: Citizens' Research Council Summary and Analysis, Proposal 06-2.

*Proposal 06-3***Dove Hunting Referendum***Official ballot language***A REFERENDUM ON PUBLIC ACT 160 OF 2004
AN ACT TO ALLOW THE ESTABLISHMENT OF A
HUNTING SEASON FOR MOURNING DOVES**

Public Act 160 of 2004 would

- Authorize the Natural Resources Commission to establish a hunting season for mourning doves.
- Require a mourning dove hunter to have a small game license and a \$2.00 mourning dove stamp.
- Stipulate that revenue from the stamp must be split evenly between the Game and Fish Protection Fund and the Fish and Wildlife Trust Fund.
- Require the Department of Natural Resources to address responsible mourning dove hunting management practices for the propagation of mourning doves; and participation in mourning dove hunting by youth, the elderly and the disabled in the Department's annual hunting guide.

Should this law be approved? Yes ☐ No ☐**The Proposal**

This ballot question asks voters to approve or reject the 2004 law that changed the classification of mourning doves from songbirds to game birds. The law specifies that:

- A person hunting mourning doves needs to purchase a \$2 stamp, in addition to a small game license.
- Revenue from the dove hunting stamp would be distributed equally between the Game and Fish Protection Fund and the Nongame Fish and Wildlife Trust Fund.
- The DNR is directed to include information in the annual hunting guide about management practices for propagating the mourning dove species. The publication should also offer guidelines for safe and ethical hunting practices directed to senior citizen, youth and disabled audiences.

Policy Discussion

The policy debate centers primarily on differing values about hunting. The plentiful supply of mourning doves potentially available for hunting contrasts with the notion of a popular bird favored by bird watchers.

Supporters of the 2004 law point out that 40 other states, including those surrounding Michigan, now allow the hunting of mourning doves. Many feel that the referendum represents a direct threat to hunting rights. They also believe that new hunters will be attracted by the plentiful supply of these birds. Supporters talk about the economic gain to the state from the \$2 stamp.

Opponents of the 2004 law initiated the petition drive because they felt strongly that the former ban on hunting mourning doves should never have been lifted. They mention the mourning dove's popularity and the fact that it was named the state's official "Bird of Peace" in 1998. Opponents of the law also point out that the bird weight is low, so it does not provide a significant food source.

Interest Groups

The coalition opposing the law is The Committee to Keep Doves Protected (www.stopshootingdoves.org) and the coalition favoring the law is Citizens for Wildlife Conservation (www.cwcmi.org).

Sources: Senate Fiscal Agency Analysis, House Bill 5029, 3-31-04; Citizens' Research Council Memorandum, *Proposal 06-3*.

This proposal asks voters to either approve or reject Public Act 160 of 2004, a law that established a hunting season for mourning doves. A "Yes" vote favors keeping this law; a "No" vote means that the law should be rescinded so that hunting mourning doves is not allowed. Sufficient signatures were filed and approved in 2005 to place the referendum on the November ballot. Once the signatures were certified, the law was suspended until voters make a choice on November 7.

Background

In 2004, after several years of debate, the legislature amended the Natural Resources and Environmental Protection Act, adding mourning doves to the listing of game that can be hunted. The legislation authorized the Natural Resources Commission to issue orders for hunting mourning doves. The commission established the first season in September 2004 on a three-year trial basis in six southern Michigan counties.

Proposal 06-4**Use of Eminent Domain***Official ballot language:***A PROPOSED CONSTITUTIONAL AMENDMENT TO PROHIBIT GOVERNMENT FROM TAKING PRIVATE PROPERTY BY EMINENT DOMAIN FOR CERTAIN PRIVATE PURPOSES**

The proposed constitutional amendment would:

- Prohibit government from taking private property for transfer to another private individual or business for purposes of economic development or increasing tax revenue.
- Provide that if an individual's principal residence is taken by government for public use, the individual must be paid at least 125% of property's fair market value.
- Require government that takes a private property to demonstrate that the taking is for a public use, if taken to eliminate blight, require a higher standard of proof to demonstrate that the taking of that property is for a public use.
- Preserve existing rights of property owners.

Should this proposal be adopted? Yes ☐ No ☐

Michigan's Legislature approved SJR E after weeks of discussion following the 2005 U.S. Supreme Court ruling on *Kelo v. New London*. The majority opinion stated that the city of New London, Connecticut, could condemn property to allow for economic development. The court specified that it was interpreting the U.S. Constitution as applied to this particular case and that states needed to define "public use" under their own laws and constitutions. Since the court ruling, several other states have approved legislation restricting eminent domain, and the issue is on the November ballot in about 10 other states.

The Michigan Supreme Court's 2004 ruling in *Wayne County v. Hathcock* specified that general economic development does not qualify as a "public purpose" under the state's constitution. The court also defined three criteria for what constitutes a permissible public use (*Citizens' Research Council Memorandum: Proposal 06-4, p. 4*).

The Proposal

This ballot question adds four new elements to the eminent domain section (Article X, Sec. 2) of the Michigan Constitution:

- "Public use" would not include the condemnation of private property for economic development purposes or enhancing tax revenues.
- A property owner must be compensated at 125 percent of the property's fair market value, along with any other reimbursement provided by law.
- If a government tries to take private property to relieve blight conditions, it must provide a "preponderance of the evidence" to demonstrate that blight actually exists.
- Any existing "right, grant or benefit" for property owners that was in effect prior to November 1, 2005, cannot be changed.

The legislature has approved a series of bills (HB 5060, 5817-19) to implement this constitutional amendment if the proposal is adopted.

Policy Discussion

The policy debate centers on differing values concerning government's role in obtaining private property for public purposes. Advocates feel that eminent domain has been used unfairly or unwisely by governmental units. They see the proposed constitutional changes as offering more protections for private property owners by reference to

This proposed constitutional amendment would "restrict the power of state or local governments to take private property by eminent domain for certain private purposes." A "Yes" vote favors restrictions on the ability of governments to use economic development or other public uses as reasons to take private property. A "No" vote opposes such restrictions. Proposal 06-4 was placed on the ballot when two-thirds of the members of both houses of the legislature approved Senate Joint Resolution E in December 2005.

Background

Webster's Collegiate Dictionary defines "eminent domain" as the power of a government to take private property for a public use. Michigan's Constitution (Article X, Sec. 2) currently states that "private property shall not be taken for public use without just compensation therefore being first made or secured in a manner prescribed by law. Compensation shall be determined in proceedings in a court of record."

the court ruling in the Hathcock case, specifically defining permissible use. Concerns have been raised that the increases in reimbursement costs, the changes in burden of proof and a different interpretation of decisions on blight (parcel by parcel rather than area-wide) will make it difficult for governments to pursue legitimate development interests.

Interest Groups

The legislative resolution was sponsored by Sen. Tony Stamas; Protect Our Property Coalition (P.O. Box 1336, Southgate, Michigan 48195) supports the amendment.

Sources: House Fiscal Agency Analysis, SJR E, 11-28-05; *Planning and Zoning News*, 5-05; Citizens' Research Council (CRC) Memorandum, *Proposal 06-4*; CRC Analysis, *Proposal 06-4*.

Proposal 06-5

Educational Funding Guarantee

Official ballot language:

A LEGISLATIVE INITIATIVE TO ESTABLISH MANDATORY SCHOOL FUNDING LEVELS

The proposed law would

- Increase current funding by approximately \$565 million and require State to provide annual funding increases equal to the rate of inflation for public schools, intermediate school districts, community colleges, and higher education (includes state universities and financial aid/grant programs)
- Require State to fund any deficiencies from General Fund.
- Base funding for school districts with a declining enrollment on three-year student enrollment average.
- Reduce and cap retirement fund contribution paid by public schools, community colleges and state universities; shift remaining portion to state.
- Reduce funding gap between school districts receiving basic per-pupil foundation allowance and those receiving maximum foundation allowance.

Should this proposed law be approved?

Yes _____ No _____

This proposed new law would require the legislature to provide minimum funding increases each year for the state's public K-12 institutions, intermediate school districts, community colleges, public universities and independent non-profit colleges. A "Yes" vote favors the funding guarantee, and a "No" vote opposes the increases tied to inflation. The issue is on the ballot because a coalition of groups gathered sufficient signatures for an initiated law and the legislature took no action during the required 40 days.

Background

Michigan's total state budget is \$41.2 billion for FY 2007, with nearly 80 percent earmarked for specific purposes (federal grants, transportation funding, constitutional mandates, etc.). The state's general fund (\$9.2 billion for FY 2007) is the portion where the legislature has discretion to make appropriations, and 85 percent of that goes to four areas: higher education, community health, corrections and human services. State appropriations for the 15 universities and 28 community colleges come from the general fund.

The School Aid Fund (\$13 billion for FY 2007) provides the monies for public K-12 education. The constitution and state laws specify the major sources of revenue: a portion of the sales and income taxes, the real estate transfer tax, statewide homestead property tax, tobacco taxes and all monies from the state lottery. Monies from the state's general fund are used to supplement the School Aid Fund.

School finance in Michigan was significantly changed by the 1994 Proposal A constitutional amendment and accompanying legislation shifting responsibility for funding public K-12 education from local governments to the state level. In an effort to lessen the gap in spending between school districts, the Proposal A changes also established a Basic Foundation Grant to school districts, a per pupil amount determined each year by the legislature.

Local school districts currently pay the contributions for employees' health care and retirement benefits.

The Proposal

This initiated law would amend the State School Aid Act by adding these provisions:

- Starting in fiscal year 2006-07, state funding for K-12 public schools, community colleges and universities could not receive less than the amount appropriated in 2004-05, adjusted by the increase in the Consumer Price Index (CPI).

- Beginning in 2007-08, these educational institutions would be guaranteed an inflationary (CPI) increase in their total state funding.
- Specific categorical programs under the School Aid Act (special education, at-risk programs, intermediate school district operations) would also receive the guaranteed annual increase.
- The state would be required, by 2012, to decrease the gap in the base foundation allowance between low and high spending school districts from \$1,300 to \$1,000.
- To help districts deal with declining enrollment, the foundation allowance would be based on either a three-year average of student enrollment or the current annual pupil membership blend, whichever is higher.
- Local contributions to the Michigan Public School Employees Retirement System (MPERS) would be capped at the current amount (14.87 percent of payroll) or 80 percent, whichever is less. The remainder would come from the state's general fund.
- In 2007, the state would be required to appropriate monies from the State School Aid Fund, and any federal sources, to pay for the funding guarantee. Money would need to be appropriated from the state's general fund to make up any deficit in the amount needed.

Proponents emphasize the value of a highly educated workforce for strengthening Michigan's economy. They talk about the importance of a strong K-16 educational system and describe how guaranteed funding increases would strengthen and protect that system. They also describe the impact of recent decreases in state appropriations for public universities and community colleges. Supporters explain the need for guaranteed state funding to ensure that the new mandated curriculum for Michigan high schools is fully implemented. They talk about the importance of providing money to lessen the funding gap between the high and low spending school districts.

Opponents raise concerns about the potential impact of the funding guarantee on the state budget, particularly when State School Aid Fund revenue does not increase at the rate of inflation. They are concerned about ability to fund other components of the state's general fund (health care, corrections, etc.). They talk about the loss of legislative oversight when funding is earmarked for specific purposes. They express particular concern about the potential cost to the state for assuming some of the costs of the school retirement system. Opponents talk about how difficult it will be to change the law to address future funding situations because an initiated law needs the three-fourths vote in the legislature.

Interest Groups

The supporting group is the K-16 Coalition for Michigan's Future (www.michigank16.org) and the opposing group is Stop the K-16 Spending Mandate (www.stopthespendingmandate.com).

Sources: Senate Fiscal Agency, *Analysis of K-16 Initiative*, March 2006 and July 2006; House Fiscal Agency, *Analysis of K-16 Funding Initiative*, July 2006; Citizens' Research Council (CRC) Memorandum, *Proposal 06-5*; CRC Analysis, *Proposal 06-5*.

General sources: Michigan Secretary of State, Bureau of Elections (www.michigan.gov/sos); Gongwer News Service; Senate Fiscal Agency; State Budget Office; Web sites of opponents and proponents.

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If this initiated law is approved by voters, Proposal 06-5 could only be changed by a vote of the people or a three-fourths vote of both houses of the legislature.

Policy Discussion

The policy debate on Proposal 06-5 focuses on differing views about whether funding should be guaranteed for specific functions of state government. The discussion also centers on the potential cost to the state budget, starting with the 2006-07 fiscal year.

The official ballot wording, as approved by the Board of Canvassers, states that Proposal 06-5 will cost approximately \$565 million in state money for 2007; funding increases will be guaranteed in subsequent years. Analyses from the Citizens' Research Council, Senate Fiscal Agency and House Fiscal Agency all suggest a range of possible costs to the state (approximately \$500 million to more than \$800 million) for implementing the proposal. There are also questions about the sources of revenue, after 2007, for funding the guarantee.

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Vote on Tuesday, November 7, 2006

Polls are open 7 a.m. to 8 p.m.

Absentee ballots are available from local clerks until 2 p.m. November 4.

For more information about elections in Michigan:

<<http://www.michigan.gov/sos>>



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